

REGISTERED MAIL - RETURN RECEIPT REQUESTED

Mr. Roger Unterberger  
Senior Vice President  
Gondrand AG  
Vladukstrasse 8  
CH-4002 Basel, Switzerland

Dear Mr. Unterberger:

The Bureau of Industry and Security, U.S. Department of Commerce ("BIS") has reason to believe that you, Roger Unterberger, acting as Senior Vice President of Gondrand AG ("Gondrand"), of Basel, Switzerland, in your individual capacity ("Unterberger"), committed three violations of the Export Administration Regulations (the "Regulations"),<sup>1</sup> which are issued under the authority of the Export Administration Act of 1979 (the "Act").<sup>2</sup> Specifically, BIS charges that Unterberger committed the following violations:

**Charge 1 (15 C.F.R. § 764.2(d) - Conspiracy to Export Pipe Cutting Equipment to Iran Without the Required U.S. Government Authorization)**

From in or about December 2002 to in or about March 2003, Unterberger conspired and acted in concert with others, known and unknown, to bring about an act that constitutes a violation of the Regulations by attempting to export to Iran, via Germany, pipe cutting equipment (the "equipment"), items subject to the Regulations and the Iranian Transactions Regulations,<sup>3</sup> without the required U.S. Government authorization. Pursuant to Section 746.7 of the Regulations, authorization was required from the Office of Foreign Assets Control, U.S. Department of the Treasury ("OFAC") before the equipment could be exported to Iran. In furtherance of the conspiracy, Unterberger and his co-conspirators devised and

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<sup>1</sup> The Regulations are currently codified in the Code of Federal Regulations at 15 C.F.R. Parts 730-774 (2005). The violations charged occurred in 2002 and 2003. The Regulations governing the violations at issue are found in the 2002 and 2003 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2002-2003)). The 2005 Regulations establish the procedures that apply to this matter.

<sup>2</sup> From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 C.F.R., 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 - 1706 (2000)) ("IEEPA"). On November 13, 2000, the Act was reauthorized and it remained in effect through August 20, 2001. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), as extended by the Notice of August 2, 2005 (70 Fed. Reg. 45273, August 5, 2005), has continued the Regulations in effect under IEEPA.

<sup>3</sup> The Iranian Transactions Regulations are currently codified in the Code of Federal Regulations at 31 C.F.R. Part 560 (2005).

employed a scheme under which they would list a false company in Germany as the purchaser and have the equipment sent to Germany for forwarding to its ultimate destination in Iran. Those items were then to be forwarded to their ultimate destination in Iran. In so doing, Unterberger committed one violation of Section 764.2(d) of the Regulations.

**Charge 2 (15 C.F.R. § 764.2(b) - Causing an Export to Iran Without the Required U.S. Government Authorization)**

On or about December 5, 2002, Unterberger caused a violation of the Regulations when Unterberger instructed Gondrand's U.S. subsidiary, Go-Trans (North America) Inc. ("Go-Trans"), to ship the equipment from the United States to Germany without the required U.S. Government authorization. Go-Trans and Unterberger knew the ultimate destination of the items was Iran. Section 734.2(b)(6) of the Regulations provides that the export of items subject to the Regulations that transit a country to a third country are deemed to be an export to the third country. Pursuant to Section 746.7 of the Regulations, authorization from OFAC was required for the export of the equipment, items subject to the Regulations and the Iranian Transactions Regulations, from the United States to Iran. No OFAC authorization was obtained for the export which was detained by the Department of Commerce prior to export. In so doing, Unterberger committed one violation of Section 764.2(b) of the Regulations.

**Charge 3 (15 C.F.R. § 764.2(h) - Actions to Evade the Requirements of the Regulations)**

In connection with the attempted export referenced in Charge 2 above, Unterberger took actions to evade the provisions of the Regulations, notably the licensing requirements for the export of the equipment to Iran. Specifically, on or about December 5, 2002, Unterberger instructed Go-Trans (North America) Inc. to falsify export control documents to list a company in Germany as the purchaser of the equipment in an effort to conceal that the equipment was being exported to Iran. In so doing, Unterberger committed one violation of Section 764.2(h) of the Regulations.

Accordingly, Unterberger is hereby notified that an administrative proceeding is instituted against him pursuant to Section 13(c) of the Act and Part 766 of the Regulations for the purpose of obtaining an order imposing administrative sanctions, including any or all of the following:

The maximum civil penalty allowed by law of \$11,000 per violation;<sup>4</sup>

Denial of export privileges; and/or

Exclusion from practice before BIS.

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<sup>4</sup> See 15 C.F.R. § 6.4(a)(2) (2005).

If Unterberger fails to answer the charges contained in this letter within 30 days after being served with notice of issuance of this letter, that failure will be treated as a default. (Regulations, Sections 766.6 and 766.7). If Unterberger defaults, the Administrative Law Judge may find the charges alleged in this letter are true without hearing or further notice to him. The Under Secretary of Commerce for Industry and Security may then impose up to the maximum penalty on each charge in this letter.

Unterberger is further notified that he is entitled to an agency hearing on the record if Unterberger files a written demand for one with his answer. (Regulations, Section 766.6). Unterberger is also entitled to be represented by counsel or other authorized representative who has power of attorney to represent him. (Regulations, Sections 766.3(a) and 766.4).

The Regulations provide for settlement without a hearing. (Regulations, Section 766.18). Should Unterberger have a proposal to settle this case, Unterberger or his representative should transmit the offer to the attorney representing BIS named below.

The U.S. Coast Guard is providing administrative law judge services in connection with the matters set forth in this letter. Accordingly, Unterberger's answer must be filed in accordance with the instructions in Section 766.5(a) of the Regulations with:

U.S. Coast Guard ALJ Docketing Center  
40 S. Gay Street  
Baltimore, Maryland 21202-4022

In addition, a copy of Unterberger's answer must be served on BIS at the following address:

Chief Counsel for Industry and Security  
Attention: Philip Ankel  
Room H-3839  
United States Department of Commerce  
14th Street and Constitution Avenue, N.W.  
Washington, D.C. 20230

UNITED STATES DEPARTMENT OF COMMERCE  
BUREAU OF INDUSTRY AND SECURITY  
WASHINGTON, D.C. 20230

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In the Matter of: )  
 )  
Mr. Roger Unterberger )  
Senior Vice President )  
Gondrand AG )  
Vladukstrasse 8 )  
CH-4002 Basel, Switzerland )  
 )  
Respondent )  
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SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made by and between Roger Unterberger, acting as Senior Vice President of Gondrand AG ("Gondrand"), of Basel, Switzerland, in your individual capacity ("Unterberger"), and the Bureau of Industry and Security, U.S. Department of Commerce ("BIS") (collectively referred to as "Parties"), pursuant to Section 766.18(a) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2006)) ("Regulations"),<sup>1</sup> issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) ("Act"),<sup>2</sup>

WHEREAS, BIS has notified Unterberger of its intention to initiate an administrative proceeding against Unterberger, pursuant to the Act and the Regulations;

<sup>1</sup> The violations charged occurred in 2002 and 2003. The Regulations governing the violations at issue are found in the 2002 and 2003 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2002-2003)). The 2006 Regulations establish the procedures that apply to this matter.

<sup>2</sup> Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), as extended by the Notice of August 2, 2005 (70 Fed. Reg. 45273, August 5, 2005), has continued the Regulations in effect under International Emergency Economic Powers Act.



WHEREAS, BIS has issued a proposed charging letter to Unterberger that alleged that Unterberger committed three violations of the Regulations, specifically:

1. *One Violation of 15 C.F.R. § 764.2(d) - Conspiracy to Export Pipe Cutting Equipment to Iran Without the Required U.S. Government Authorization:* From in or about December 2002 to in or about March 2003, Unterberger conspired and acted in concert with others, known and unknown, to bring about an act that constitutes a violation of the Regulations by attempting to export to Iran, via Germany, pipe cutting equipment (the "equipment"), items subject to the Regulations and the Iranian Transactions Regulations,<sup>3</sup> without the required U.S. Government authorization. Pursuant to Section 746.7 of the Regulations, no person may export or reexport items subject to both the Regulations and the Iranian Transactions Regulations without authorization from the Office of Foreign Assets Control, U.S. Department of the Treasury ("OFAC"). In furtherance of the conspiracy, Unterberger and its co-conspirators devised and employed a scheme under which they would list a false company in Germany as the purchaser and have the equipment sent to Germany for forwarding to its ultimate destination in Iran.
2. *One Violation of 15 C.F.R. § 764.2(b) - Causing an Export to Iran Without the Required U.S. Government Authorization:* On or about December 5, 2002, Unterberger caused a violation of the Regulations when he instructed a Gondrand

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<sup>3</sup> The Iranian Transactions Regulations are currently codified in the Code of Federal Regulations at 31 C.F.R. Part 560 (2005).



U.S. subsidiary, Go-Trans (North America) Inc., to ship the equipment from the United States to Germany without the required U.S. Government authorization. Gonrand and Go-Trans knew the items were destined for Iran. Section 734.2(b)(6) of the Regulations provides that the export of items subject to the Regulations that transit a country to a third country are deemed to be an export to the third country. Pursuant to Section 746.7 of the Regulations, no person may export or reexport items subject to both the Regulations and the Iranian Transactions Regulations, without authorization OFAC. No OFAC authorization was obtained for the export which was detained by the Department of Commerce prior to export.

3. *One Violation of 15 C.F.R. § 764.2(h) - Actions to Evade the Requirements of the Regulations:* In connection with the attempted export referenced above, Unterberger took actions to evade the provisions of the Regulations, notably the licensing requirements for the export of the equipment to Iran. Specifically, on or about December 5, 2002, Unterberger instructed Go-Trans (North America) Inc. to falsely list a company in Germany as the purchaser of the equipment on an invoice and related shipping documents in an effort to conceal that the equipment was being exported to Iran.

WHEREAS, Unterberger has reviewed the proposed charging letter and is aware of the allegations made against him and the administrative sanctions which could be imposed against him if the allegations are found to be true;



WHEREAS, Unterberger fully understands the terms of this Agreement and the Order ("Order") that the Assistant Secretary of Commerce for Export Enforcement will issue if he approves this Agreement as the final resolution of this matter;

WHEREAS, Unterberger enters into this Agreement voluntarily and with full knowledge of his rights;

WHEREAS, Unterberger states that no promises or representations have been made to him other than the agreements and considerations herein expressed;

WHEREAS, Unterberger neither admits nor denies the allegations contained in the proposed charging letter;

WHEREAS, Unterberger wishes to settle and dispose of all matters alleged in the proposed charging letter by entering into this Agreement; and

WHEREAS, Unterberger agrees to be bound by the Order, if entered;

NOW THEREFORE, the Parties hereby agree as follows:

1. BIS has jurisdiction over Unterberger, under the Regulations, in connection with the matters alleged in the proposed charging letter.
2. The following sanction shall be imposed against Unterberger in complete settlement of the violations of the Regulations relating to the transactions specifically detailed in the proposed charging letter:
  - a. Unterberger shall be assessed a civil penalty in the amount of \$25,500 which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of the Order.



b. The timely payment of the civil penalty agreed to in paragraph 2.a. is hereby made a condition to the granting, restoration, or continuing validity of any export license, permission, or privilege granted, or to be granted, to Unterberger. Failure to make timely payment of the civil penalty set forth above may result in the denial of all of Unterberger's export privileges for a period of one year from the date of imposition of the penalty.

3. Subject to the approval of this Agreement pursuant to paragraph 8 hereof, Unterberger hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violations of this Agreement or the Order, if entered), including, without limitation, any right to: (a) an administrative hearing regarding the allegations in any charging letter; (b) request a refund of any civil penalty paid pursuant to this Agreement and the Order, if entered; (c) request any relief from the Order, if entered, including without limitation relief from the terms of a denial order under 15 C.F.R. § 764.3(a)(2); and (d) seek judicial review or otherwise contest the validity of this Agreement or the Order, if entered.

4. Upon entry of the Order and timely payment of the \$25,500 civil penalty, BIS will not initiate any further administrative proceeding against Unterberger in connection with any violation of the Act or the Regulations arising out of the transactions identified in the proposed charging letter.

5. BIS will make the proposed charging letter, this Agreement, and the Order, if entered, available to the public.

6. This Agreement is for settlement purposes only. Therefore, if this Agreement is not accepted and the Order is not issued by the Assistant Secretary of Commerce for Export



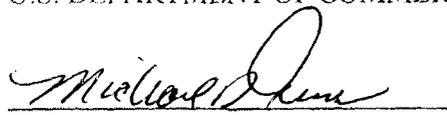
Enforcement pursuant to Section 766.18(a) of the Regulations, no Party may use this Agreement in any administrative or judicial proceeding and the Parties shall not be bound by the terms contained in this Agreement in any subsequent administrative or judicial proceeding.

7. No agreement, understanding, representation or interpretation not contained in this Agreement may be used to vary or otherwise affect the terms of this Agreement or the Order, if entered, nor shall this Agreement serve to bind, constrain, or otherwise limit any action by any other agency or department of the U.S. Government with respect to the facts and circumstances addressed herein.

8. This Agreement shall become binding on BIS only if the Assistant Secretary of Commerce for Export Enforcement approves it by entering the Order, which will have the same force and effect as a decision and order issued after a full administrative hearing on the record.

9. Each signatory affirms that he has authority to enter into this Settlement Agreement and to bind his respective party to the terms and conditions set forth herein.

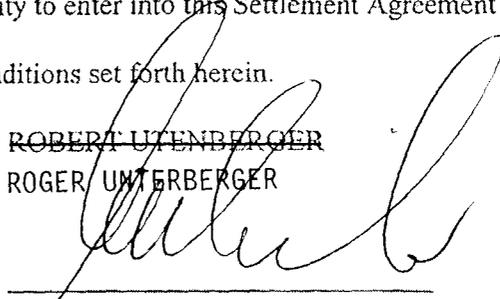
BUREAU OF INDUSTRY AND SECURITY  
U.S. DEPARTMENT OF COMMERCE



Michael D. Turner  
Director  
Office of Export Enforcement

Date: 7/26/06

~~ROBERT UTENBERGER~~  
~~ROGER UNTERBERGER~~



~~Robert Utenberger~~  
Roger Unterberger

Date: Apr 27<sup>th</sup>, 2006

UNITED STATES DEPARTMENT OF COMMERCE  
BUREAU OF INDUSTRY AND SECURITY  
WASHINGTON, D.C. 20230

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In the Matter of: )  
)  
Mr. Roger Unterberger )  
Senior Vice President )  
Gondrand AG )  
Vladukstrasse 8 )  
CH-4002 Basel, Switzerland )  
)  
Respondent )  
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ORDER RELATING TO ROGER UNTERBERGER

The Bureau of Industry and Security, U.S. Department of Commerce (“BIS”) has notified Roger Unterberger, acting as Senior Vice President of Gondrand AG (“Gondrand”), of Basel, Switzerland, in his individual capacity (“Unterberger”), of its intention to initiate an administrative proceeding against Unterberger pursuant to Section 766.3 of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (2006)) (“Regulations”),<sup>1</sup> and Section 13(c) of the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401-2420 (2000)) (“Act”),<sup>2</sup> by issuing a proposed charging letter to Unterberger that alleged that Unterberger committed three violations of the Regulations. Specifically, the charges are:

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<sup>1</sup> The violations charged occurred in 2002 and 2003. The Regulations governing the violations at issue are found in the 2002 and 2003 version of the Code of Federal Regulations (15 C.F.R. Parts 730-774 (2002-2003)). The 2006 Regulations establish the procedures that apply to this matter.

<sup>2</sup> Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R., 2001 Comp. 783 (2002)), as extended by the Notice of August 2, 2005 (70 Fed. Reg. 45273, August 5, 2005), has continued the Regulations in effect under International Emergency Economic Powers Act.

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2. *One Violation of 15 C.F.R. § 764.2(b) - Causing an Export to Iran Without the Required U.S. Government Authorization:* On or about December 5, 2002, Unterberger caused a violation of the Regulations when he instructed a Gondrand U.S. subsidiary, Go-Trans (North America) Inc., to ship the equipment from the United States to Germany without the required U.S. Government authorization. Gondrand and Go-Trans knew the items were destined for Iran. Section

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<sup>3</sup> The Iranian Transactions Regulations are currently codified in the Code of Federal Regulations at 31 C.F.R. Part 560 (2005).

734.2(b)(6) of the Regulations provides that the export of items subject to the Regulations that transit a country to a third country are deemed to be an export to the third country. Pursuant to Section 746.7 of the Regulations, no person may export or reexport items subject to both the Regulations and the Iranian Transactions Regulations, without authorization OFAC. No OFAC authorization was obtained for the export which was detained by the Department of Commerce prior to export.

3. *One Violation of 15 C.F.R. § 764.2(h) - Actions to Evade the Requirements of the Regulations:* In connection with the attempted export referenced above, Unterberger took actions to evade the provisions of the Regulations, notably the licensing requirements for the export of the equipment to Iran. Specifically, on or about December 5, 2002, Unterberger instructed Go-Trans (North America) Inc. to falsely list a company in Germany as the purchaser of the equipment on an invoice and related shipping documents in an effort to conceal that the equipment was being exported to Iran.

WHEREAS, BIS and Unterberger have entered into a Settlement Agreement pursuant to Section 766.18(a) of the Regulations whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein, and

WHEREAS, I have approved of the terms of such Settlement Agreement;

IT IS THEREFORE ORDERED:

FIRST, that a civil penalty of \$25,500 is assessed against Unterberger, which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of this Order. Payment shall be made in the manner specified in the attached instructions.

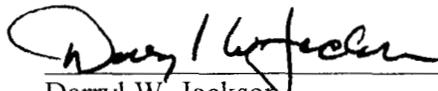
SECOND, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C.

§§ 3701-3720E (2000)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and, if payment is not made by the due date specified herein, Unterberger will be assessed, in addition to the full amount of the civil penalty and interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

THIRD, that the timely payment of the civil penalty set forth above is hereby made a condition to the granting, restoration, or continuing validity of any export license, license exception, permission, or privilege granted, or to be granted, to Unterberger. Accordingly, if Unterberger should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of Unterberger's export privileges for a period of one year from the date of entry of this Order.

FOURTH, that the proposed charging letter, the Settlement Agreement, and this Order shall be made available to the public.

This Order, which constitutes the final agency action in this matter, is effective immediately.

  
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Darryl W. Jackson  
Assistant Secretary of Commerce  
for Export Enforcement

Entered this 4<sup>th</sup> day of August 2006.